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Keith N. Larson

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EXAMINER

KARIKARI, KWASI

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

11/21/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/674,515 | <b>Applicant(s)</b><br>LARSON ET AL. |  |
|                              | <b>Examiner</b><br>KWASI KARIKARI    | <b>Art Unit</b><br>2617              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-5,7-12 and 14-17 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-5,7-12 and 14-17 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

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### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 10/05/2011, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

MPEP § 706.07(a) states that and Office action following a reopening of prosecution may be made **FINAL** if all new grounds of rejection were **either (A) necessitated by amendment** or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed.

Therefore, the Office Action is been made FINAL based on claims amendment filed on 05/18/2011.

### **Response to Arguments**

2. Applicant's arguments filed 10/05/2011 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as shown below.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claimed limitations “permitting the frequency at which said communication are provided to him comprises permitting the user to limit the frequency at which updates regarding the first condition are provided to him **while allowing the cell phone of the user to receive an alert message regarding a second condition different than the first condition when updates regarding the first condition are being limited.**” in claims 15 and 17 are not clearly described in the specification as originally filed and this constitute new matter.

The applicant has indicated (see, remarks file on 05/18/20011) that the support for the claimed limitations in claim 15 and similar claim 17, could be found in (Specification, page 5, lines 3-8).

However, the Examiner disagrees with such an assertion because page 5 lines 3-8 do not disclose that “the cell phone of the user receive an alert message regarding a second condition.....when updates regarding the first condition are being limited.” (i.e., there is no simultaneous operation in applicant’s specification where an alert of a second condition is received when updates regarding the first condition are being limited at the same time)

The Applicant is required to indicate all the pages in the specification that mention the above claimed limitations if the Applicant disagrees with the rejection.

For examination purposes, the Examiner would interpret the rejected claimed limitations in the broadest scope of the Applicant’s invention.

Appropriate correction is required.

**Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1-4, 7-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graske et al., (U.S. 2005/0009508), (hereinafter, Graske) in view of Hunter et. al., (U.S. 2003/0069002), (hereinafter, Hunter).**

**Regarding claims 1 and 8, Graske** discloses a method/system for a cell phone service provider to communicate to a cell phone user, said user located in a particular local geographical area (= registered mobile stations 120 and 125 receive alert from weather alert generator 130 which is coupled to notification component 105 and network 105, see [0015, 0018, 0020-21 and 0025]), an alert message that affects that particular local geographical area (= weather alert notification is sent to registered mobile station which is within an area of weather alert, see [0020-21, 0028 and 0038-39]), said method comprising the steps of:

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receiving said alert message from a reporting agency (= NWS/NOAA, see [0002 and 0018]), said message containing information as to locations affected(= weather alert notification is sent to registered mobile station which is within an area of weather alert, see [0020-21 and 0038-39]);

determining that the user is located in said geographical area(= weather alert notification is sent to **registered mobile station** which is **within an area of weather alert**, see [0020-21, 0038-39] and Fig. 3, steps 315, 320 and 325); and

providing to the user at least one communication advising him of the alert message (= weather alert notification component 105 sends notification of weather alert/detailed map to mobile station, see [0035-36 and 0039-40]).

**Graske** explicitly fails to mention the claimed limitations: “identifying a destination in the at least one communication; and communicating to the user directions from his present location to said destination”.

However, **Hunter**, which is an analogous art teaches the claimed limitations: “identifying a destination in the at least one communication; and communicating to the user directions from his present location to said destination”(see [0056 and 0122-23]).

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Hunter with Graske for the benefit of achieving a system emergency notification system that disseminates notification content to only individuals who are mostly affected thereby, effectively managing communication between network entities.

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**Regarding claims 2 and 9**, as recited in claims 1 and 8, **Graske** further discloses the method/system, wherein the reporting agency is selected from the group consisting of National Weather Service, National Oceanographic and Atmospheric Administration, Amber Alert Systems, State Police, Fire Department, local government agency, and local police (= NWS/NOAA, see [0002 and 0018]).

**Regarding claims 3 and 10**, as recited in claims 1 and 8, **Graske** further discloses the method/system, wherein said communication is selected from the group consisting of displaying information, triggering an audio alert, and supplying a voice message (= weather alert notification component 105 sends notification of weather alert/detailed map to mobile station, see [0019, 0035-37 and 0039-40]).

**Regarding claims 4 and 11**, as recited in claims 1 and 8, Graske discloses that the method/system further comprising the step of: permitting the user to limit said providing step based upon subject content of the message (=user request to be notified of specific weather alerts such as tornado, hail...see [0031]; and notification alert is sent if weather criteria profile matches the profile of the mobile station; and the weather notification component withholds weather alert if the weather criteria profile does not match the profile of the mobile station, see [0031-32]).

**Regarding claim 7**, **Graske** discloses a method for a cell phone service provider to communicate to a cell phone user who is a member of a class of recipients, said user

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located in a particular local geographical area (=location, see [0021 and 0033-34]), an alert message that affects that particular local geographical area (= registered mobile stations 120 and 125 receive alert from weather alert generator 130 which is coupled to notification component 105 and network 105, see [0015, 0018, 0020-21 and 0025]; whereby the **registered** mobile stations are being associated with the “member of a class”), said method comprising the steps of:

receiving said alert message from a reporting agency(= NWS/NOAA, see [0002 and 0018]), said message containing information as to locations affected (= weather alert notification is sent to registered mobile station which is within an area of weather alert, see [0020-21 and 0038-39]);

determining that the user is located in said geographical area (=determining location of mobile station, see [0021, 0033 and 0039]) and that the user is a member of a class intended to receive said alert(= determining if mobile station is registered to receive alert, see [0024-25 and 0035] weather alert notification is sent to **registered mobile station** which is **within an area of weather alert**, see [0020-21, 0038-39] and Fig. 3, steps 315, 320 and 325)];

providing to the user at least one communication advising him of the alert message (= weather alert notification component 105 sends notification of weather alert/detailed map to mobile station, see [0035-36 and 0039-40]).

**Graske** explicitly fails to mention the claimed limitations: “defining the location of a destination contained in the message; and communicating to the user directions from his present location to said destination”.



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However, **Hunter**, which is an analogous art teaches the claimed limitations: “defining the location of a destination contained in the message; and communicating to the user directions from his present location to said destination (see [0056 and 0122-23]).

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Hunter with Graske for the benefit of achieving a system emergency notification system that disseminates notification content to only individuals who are mostly affected thereby, effectively managing communication between network entities.

**Regarding claim 14, Graske** discloses a system for communicating from a cell phone service provider to a cell phone user, said user located in a particular local geographical area (=location, see [0021 and 0033-34]), an alert message that affects that particular local geographical area (= registered mobile stations 120 and 125 receive alert from weather alert generator 130 which is coupled to notification component 105 and network 105, see [0015, 0018, 0020-21 and 0025]), said system comprising;

means for receiving said alert message from a reporting agency(= NWS/NOAA, see [0002 and 0018]), said message containing information as to locations affected (= weather alert notification is sent to registered mobile station which is within an area of weather alert, see [0020-21 and 0038-39]);

first a determining means for determining the user is located in said geographical area (=determining location of mobile station, see [0021, 0033 and 0039]);

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a second determining means for determining that the user is a member of class intended to receive said alert (= determining if mobile station is registered to receive alert, see [0024-25 and 0035] weather alert notification is sent to **registered mobile station** which is **within an area of weather alert**, see [0020-21, 0038-39] and Fig. 3, steps 315, 320 and 325]; whereby the **registered** mobile stations are being associated with the "member of a class");

means for providing to the user at least one communication advising him of the alert message(= weather alert notification component 105 sends notification of weather alert/detailed map to mobile station, see [0035-36 and 0039-40]).

**Graske** explicitly fails to mention the claimed limitations: "means for defining the location of a destination contained in the message; and means for communicating to the user directions from his present location to said destination."

However, **Hunter**, which is an analogous art teaches the claimed limitations: "means for defining the location of a destination contained in the message; and means for communicating to the user directions from his present location to said destination. (see [0056 and 0122-23]).

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Hunter with Graske for the benefit of achieving a system emergency notification system that disseminates notification content to only individuals who are mostly affected thereby, effectively managing communication between network entities.

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5. **Claims 5, 12, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Root et al., (U.S 20030125876), (hereinafter, Root).**

**Regarding claims 5 and 12, Graske** discloses a method/means for a cell phone service provider to communicate to a cell phone user, said user located in a particular local geographical area (=location, see [0021 and 0033-34]), an alert message regarding a first condition (= weather, see [0031]) that affects that particular local geographical area (= registered mobile stations 120 and 125 receive alert from weather alert generator 130 which is coupled to notification component 105 and network 105, see [0015, 0018, 0020-21 and 0025]) said method comprising the steps of:

receiving said alert message from a reporting agency(= NWS/NOAA, see [0002 and 0018]), said message containing information as to locations affected(= weather alert notification is sent to registered mobile station which is within an area of weather alert, see [0020-21 and 0038-39]);

determining that the cellular phone of the user is located in said ,geographical area(= weather alert notification is sent to **registered mobile station** which is **within an area of weather alert**, see [0020-21, 0038-39] and Fig. 3, steps 315, 320 and 325);

providing to the cellular phone of the user at least one communication advising the user of the alert message (= weather alert notification component 105 sends notification of weather alert/detailed map to mobile station, see [0035-36 and 0039-40]).

**Graske** explicitly fails to disclose the claimed limitations: “permitting the user to limit the frequency at which said communications are provided to him”

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However, **Root** which is an analogous art equivalently teaches the claimed limitations: "permitting the user to limit the frequency at which said communications are provided to him" (= broadcast network 10 for selectively transmitting individualized weather output signals to remote devices, see [0017 and 0046-47]; user-defined parameters include particular weather patterns and identifier for identifying **particular times or time intervals that a user may desire a weather product**, see [0019]; and time identifier identifying **particular time, times or time intervals the user desires the interactive weather data advisory to communicate weather data to the user** or to monitor the real-time weather for a particular time/date, see [0020]; whereby the particular time, times or time intervals the user may desire weather product is being associated with the "frequency at which said communication is provided to him").

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Root with Graske for the benefit of achieving a notification system that disseminates weather content to users based on individualized defined parameters thereby, managing system resources in an efficient manner.

**Regarding claims 15 and 17**, as recited in claims 5 and 12, **Graske** explicitly fails to disclose the method wherein "permitting the user to limit the frequency at which said communications are provided to him comprises permitting the user to limit the frequency at which **updates** regarding the first condition are provided to him while allowing the cell

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phone of the user to receive an alert message regarding a second condition different than the first condition when **updates** regarding the first condition are being limited”.

However, **Root**, which is an analogous art equivalently teaches the claimed limitations: “permitting the user to limit the frequency at which said communications are provided to him comprises permitting the user to limit the frequency at which **updates** regarding the first condition are provided to him while allowing the cell phone of the user to receive an alert message regarding a second condition different than the first condition when **updates** regarding the first condition are being limited” (= broadcast network 10 for selectively transmitting individualized weather output signals to remote devices, see [0017]; user-defined parameters include weather content identifier for variety of weather conditions and events such as tornadoes, snow storms etc, see [0020, 0037-38 and 0040]; particular weather patterns and identifier for identifying **particular times or time intervals that a user may desire a weather product**, see [0019]; and time identifier identifying particular time, times or time intervals the user desires the interactive weather data advisory to communicate weather data to the user or to monitor the real-time weather for a particular time/date, see [0020]; whereby the particular/variety weather conditions are being associated with the “first and second conditions”).

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Root with Graske for the benefit of achieving a notification system that disseminates weather content to users

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based on individualized defined parameters thereby, managing system resources in an efficient manner.

**6. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Root and further in view of Hunter.**

**Regarding claim 16**, as recited in claim 5, the combination of **Graske** and **Root** explicitly fails disclose that the method further including: “identifying a destination in the at least one communication; and communicating to the user directions from his present location to said destination”.

However, **Hunter**, which is an analogous art teaches the claimed limitations: “identifying a destination in the at least one communication; and communicating to the user directions from his present location to said destination”. (see [0056 and 0122-23]).

Therefore, it would have been obvious at the time the invention was made for one of the ordinary skill in the art to have combined the teaching of Hunter with Graske and Root for the benefit of achieving a system emergency notification system that disseminates notification content to only individuals who are mostly affected thereby, effectively managing communication between network entities.

### **CONCLUSION**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (5:30am – 3:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904.

**The fax phone number** for the organization where this application or proceeding is assigned is **571-273-8566**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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| <b>/Kwasi Karikari/<br/>Primary Examiner: Art Unit 2617.</b> |
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